

Introduced by Senator Runner

February 24, 2006

An act to amend Sections 905.6 and 13332.09 of the Government Code, and to amend Section 10295.1 of, and to add Section 10708.5 to, the Public Contract Code, relating to the California State University.

LEGISLATIVE COUNSEL'S DIGEST

SB 1724, as introduced, Runner. California State University.

(1) Existing law, the Tort Claims Act, sets forth, among other things, the procedures for filing a claim against a statewide public entity. The act specifies that a claim against the state is to be filed with the California Victim Compensation and Government Claims Board, unless the claim is against a judicial branch entity or judge of one of those entities, in which case the claim is filed with the Judicial Council. A provision of the act exempts claims against the Regents of the University of California from these procedures.

This bill would also exempt claims against the Trustees of the California State University from these procedures.

(2) Existing law requires contracts for the acquisition of motor vehicles or general mobile equipment by a state agency, as defined, to be made by or under the supervision of the Department of General Services. Existing law defines "state agency," for the purposes of this provision, to include each campus of the California State University.

This bill would remove the campuses of the California State University from the scope of this provision.

(3) Existing law prohibits, except under specified circumstances, a state department or agency, as defined, from contracting with a vendor, contractor, or an affiliate of a vendor or contractor, unless that vendor or contractor, and all of its affiliates that make sales for

deliveries into California, are holders of a California seller's permit issued as prescribed. Existing law defines "state department or agency," for these purposes, to include every state office, department, division, bureau, board, commission, and the California State University, and to exclude the University of California, the Legislature, the courts, and any agency in the judicial branch of government.

This bill would also exclude the California State University from this prohibition.

(4) Existing law, the California State University Contract Law, provides, among other things, that when, in the opinion of the Trustees of the California State University, the best interests of the university so dictate, the trustees may enter into an agreement with a contractor to provide all or significant portions of the design services and construction services relating to the erection, construction, alteration, painting, repair, or improvement of a state structure, building, road, or other state improvement of any kind.

The bill would, notwithstanding a provision of existing law that requires the Department of General Services to approve, with respect to access compliance, plans and specifications for state buildings that are intended for use by the public and constructed with state funds, authorize the trustees to perform this function for California State University buildings and facilities that are intended for use by the public and constructed with state funds.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 905.6 of the Government Code is
2 amended to read:

3 905.6. This part does not apply to claims against the Regents
4 of the University of California *or the Trustees of the California*
5 *State University*.

6 SEC. 2. Section 13332.09 of the Government Code is
7 amended to read:

8 13332.09. (a) No purchase order or other form of
9 documentation for acquisition or replacement of motor vehicles
10 shall be issued against any appropriation until the Department of

1 General Services has investigated and established the necessity
2 therefor.

3 (b) A state agency may not acquire surplus mobile equipment
4 from any source for program support until the Department of
5 General Services has investigated and established the necessity
6 therefor.

7 (c) Notwithstanding any other provision of law, all contracts
8 for the acquisition of motor vehicles or general use mobile
9 equipment for a state agency shall be made by or under the
10 supervision of the Department of General Services. Pursuant to
11 Section 10298 of the *Public Contract Code*, the Department of
12 General Services may collect a fee to offset the cost of the
13 services provided.

14 (d) All passenger-type motor vehicles purchased for state
15 officers and employees, except constitutional officers, shall be
16 American-made vehicles of the light class, as defined by the
17 State Board of Control, unless excepted by the Director of
18 General Services on the basis of unusual requirements, including,
19 but not limited to, use by the California Highway Patrol, that
20 would justify the need for a motor vehicle of a heavier class.

21 (e) No general use mobile equipment having an original
22 purchase price of twenty-five thousand dollars (\$25,000) or more
23 shall be rented or leased from a nonstate source and payment
24 therefor made from any appropriation for the use of the
25 Department of Transportation, without the prior approval of the
26 Department of General Services after a determination that
27 comparable state-owned equipment is not available, unless
28 obtaining approval would endanger life or property, in which
29 case the transaction and the justification for not having sought
30 prior approval shall be reported immediately thereafter to the
31 Department of General Services.

32 (f) As used in this section:

33 (1) "General use mobile equipment" means equipment that is
34 listed in the Mobile Equipment Inventory of the State Equipment
35 Council and which is capable of being used by more than one
36 state agency, and shall not be deemed to refer to equipment
37 having a practical use limited to the controlling state agency
38 only. Section 575 of the Vehicle Code shall have no application
39 to this section.

1 (2) “State agency” means a state agency, as defined pursuant
2 to Section 11000, ~~and each campus of the California State~~
3 ~~University~~. The University of California is requested and
4 encouraged to have the Department of General Services perform
5 the tasks identified in this section with respect to the acquisition
6 or replacement of motor vehicles by the University of California.

7 SEC. 3. Section 10295.1 of the Public Contract Code is
8 amended to read:

9 10295.1. (a) A state department or agency shall not contract
10 for the purchase of tangible personal property from a vendor,
11 contractor, or an affiliate of a vendor or contractor, unless that
12 vendor, contractor, and all of its affiliates that make sales for
13 delivery into California are holders of a California seller’s permit
14 issued pursuant to Article 2 (commencing with Section 6066) of
15 Chapter 2 of Part 1 of Division 2 of the Revenue and Taxation
16 Code, or are holders of a certificate of registration issued
17 pursuant to Section 6226 of the Revenue and Taxation Code. A
18 vendor or contractor that sells tangible personal property to a
19 state department or agency, and each affiliate of that vendor or
20 contractor that makes sales for delivery into California, shall be
21 regarded as a “retailer engaged in business in this state” and shall
22 be required to collect the California sales or use tax on all its
23 sales into the state in accordance with Part 1 (commencing with
24 Section 6001) of Division 2 of the Revenue and Taxation Code.

25 (b) Beginning on and after January 1, 2004, each vendor,
26 contractor, or affiliate of a vendor or contractor that is offered a
27 contract to do business with a state department or state agency
28 shall submit to that state department or agency a copy, as
29 applicable, of that retailer’s seller’s permit or certificate of
30 registration, and a copy of each of the retailer’s applicable
31 affiliate’s seller’s permit or certificate of registration, as
32 described in subdivision (a). This subdivision does not apply to a
33 credit card purchase of goods of two thousand five hundred
34 dollars (\$2,500) or less. The total amount of exemption
35 authorized herein shall not exceed seven thousand five hundred
36 dollars (\$7,500) per year for each company from which a state
37 agency is purchasing goods by credit card. It shall be the
38 responsibility of each state agency to monitor the use of this
39 exemption and adhere to these restrictions on these purchases.

1 (c) A state department or state agency is exempted from the
2 provisions of subdivision (a) if the executive director, or his or
3 her designee, of that state department or agency makes a written
4 finding that the contract is necessary to meet a compelling state
5 interest.

6 (d) For the purposes of this section:

7 (1) “Affiliate of the vendor or contractor” means any person or
8 entity that is controlled by, or is under common control of, a
9 vendor or contractor through stock ownership or any other
10 affiliation.

11 (2) “Compelling state interest” includes, but is not limited to,
12 the following:

13 (A) Ensuring the provision of essential services.

14 (B) Ensuring the public health, safety, and welfare.

15 (C) Responding to an emergency, as defined in Section 1102.

16 (3) “State department or agency” means every state office,
17 department, division, bureau, board, *and* commission~~and the~~
18 ~~California State University~~, but does not include the University
19 of California, *the California State University*, the Legislature, the
20 courts, and any agency in the judicial branch of government.

21 SEC. 4. Section 10708.5 is added to the Public Contract
22 Code, to read:

23 10708.5. Notwithstanding Section 4454 of the Government
24 Code, the trustees shall review, for compliance with the
25 California Building Standards Code and, specifically, for
26 compliance with the access compliance provisions, as adopted by
27 the California Building Standards Commission for application to
28 state agencies, plans and specifications for all California State
29 University buildings and facilities that are intended for use by the
30 public and that are constructed, in whole or in part, with state
31 funds. No contract shall be awarded until the trustees issue
32 written approval stating that the plans and specifications comply
33 with the intent of Chapter 7 (commencing with Section 4450) of
34 Division 5 of Title 1 of the Government Code.